

## REMARKS

Claims 1-21 and 30-50, 52, 53 and 55-62 are pending in this application. Claims 1, 30-32, 34, 52, 53 and 55 have been amended. Claims 1, 30, 34 and 55 are the independent claims. Applicants believe all payments have been submitted; however, if payment is deficient please debit the Deposit Account 50-1660.

## **Interview Summary**

Applicants thank the Office for the Examiner Interview of April 2, 2009 and the interview summary mailed April 10, 2009. Further, Applicants thank the Office for indicating Claim 1 and Claim 30, along with the cited references of Atake and Bippus were discussed during the interview; Applicants assert that Claim 34 and the cited reference of Keim were also discussed during the Examiner Interview. Applicants assert that the Office also suggested adding the limitations of Claim 53 or Claim 54 (and Claim 51 from which they depend) to Claim 1. The above amendments and below remarks are in view of the Examiner Interview.

## **Claim Rejections – 35 U.S.C. § 103(a) of Claims 1-21**

The Office has rejected **Claims 1-4, 10-12, 15, 16, 53 and 54**, as being unpatentable over Keim (4,430,914) in view of Mutti, et al. (4,778,382) and further in view of Atake (6,325,607).

### Claim 1

Claim 1 has been amended to require the particulars of Claim 51 and features of Claim 54, including a slot located through a plate (see section titled **Finality of the Next Action is Precluded**). Claim 1, as amended, requires, in part, "a stationary guide

structure having at least a first plate and a second plate for positioning and guiding the strip in the apparatus; and at least one of said first plate and said second plate having at least one slot extending therethrough". In rejecting Claim 1, the Office states that Keim teaches "a stationary guide structure for positioning and guiding the strip in the apparatus (items 40, 42, 44 and 46 – figure 7a; column 3, lines 25-30)". Keim fails to teach the stationary guide structure as required in amended Claim 1. Claim 1 requires a stationary guide structure having at least two plates and at least one of those two plates has to have a slot extending through the plate. Items 40, 42, 44 and 46 of Keim have flat, solid surfaces and do not contain slots extending through the surfaces thereof. Keim fails to disclose a guide structure with two plates and at least one of those plates having a slot extending through the thicknesses thereof, as required by Claim 1. Further, Mutti and Atake fail to cure the deficiencies of Keim and therefore, Keim in view of Mutti and further in view of Atake fails to disclose, or render obvious, all elements of Claim 1. Applicants respectfully request the Office withdraw the rejection of Claim 1 and the Claims that depend therefrom (Claims 2-4, 10-12, 15, 16, 52, 53 and 54).

Further, the Office uses the above discussed rejection of Claim 1 being unpatentable over Keim in view of Mutti and further in view of Atake along with various combinations of the cited references of Ekendahl, Fritz et al., Arends, Dupraz, Desnick, Mutti, Wheaton, III, et al., Straumanis and Oster et al. to render Claims **5-9, 13, 14 and 17-21** obvious. These references taken alone or in combination with the combination of Keim in view of Mutti and further in view of Atake fail to cure the deficiencies of Keim in view of Mutti and further in view of Atake discussed above. As Claims 5-9, 13, 14 and 17-21 depend from Claim 1, and require all elements thereof, Keim in view of Mutti and further in

view of Atake in combination with the above cited references cannot render Claims 5-9, 13, 14 and 17-21 obvious. Applicants respectfully request withdrawal of these rejections.

Claim 53

Applicants assert the Office has failed to provide a prima facie case of obviousness with respect to Claim 53. Claim 53 requires, in part, "where said first plate has a channel for receiving the continuous strip between said first plate and said second plate" (emphasis added). The Office has rejected Claim 53, at the bottom of page 3 and top of page 4 of the Office Action, by referring to Figures 7a and 7b of Keim. Applicants assert the Office has erred. Keim does not disclose a channel in a first plate of its guide structure for receiving the strip nor does it provide a reason for including such a channel in its guide structure. Further, items 40, 42, 44 and 46 of Keim are flat and do not individually contain a channel. Yet further, Mutti and Atake fail to cure the deficiency of Keim. Thus, Keim in view of Mutti and further in view of Atake cannot render Claim 53 obvious. Applicants respectfully request the Office withdraw the rejection of Claim 53.

Claim 54

Applicants assert the Office has failed to provide a prima facie case of obviousness with respect to Claim 54. Claim 54 requires, in part, "where said first plate and said second plate each have at least one slot extending through the thickness of the plate". The Office has rejected Claim 54, at the top of page 4 of the Office Action by referring to Figures 7a and 7b and Col. 3, Lines 30-35 of Keim. Applicants assert the Office has erred. Keim does not disclose first and second plates that each have a slot through the thickness of the plate, nor does Keim provide a reason for including slots in the plates. Further, as discussed above with respect to Claim 1, items 40, 42, 44 and 46 of Keim are solid arcuate members that do not appear to have any slots located through the thickness thereof. Yet

further, Mutti and Atake fail to cure the deficiency of Keim. Thus, Keim in view of Mutti and further in view of Atake cannot render Claim 54 obvious. Applicants respectfully request the Office withdraw this rejection.

#### **Claim Rejections – 35 U.S.C. § 103(a) of Claims 30 and 59-61**

The Office has rejected **Claims 30 and 59-61**, as being unpatentable over Bippus (3,577,700) in view of Atake (6,325,607). Amended Claim 30 requires, in part, “a heat shield assembly comprising at least two heat shields operated from a common pneumatic actuator” (emphasis added). These amendments are supported at least by Pages 15, line 19, to Page 16, line 2. Without conceding the propriety of the combination, the Office uses Bippus in view of Atake to render obvious the heat shield assembly of Claim 30; however, Atake fails to disclose a heat shield assembly comprising at least two heat shields operated from a common pneumatic actuator. Further, Applicants assert there is no reason in the cited art or knowledge of one skilled in the art to use a single pneumatic actuator to operate two heat shields. Thus, Bippus in view of Atake fails to disclose or render obvious all elements of Claim 30. Applicants respectfully request the Office withdraw the rejection of Claim 30 and the claims that depend therefrom (Claims 59-61).

#### **Claim Rejections – 35 U.S.C. § 103(a) of Claims 31 and 32**

The Office has rejected **Claims 31 and 32**, as being unpatentable over Bippus (3,577,700) in view of Atake (6,325,607) and further in view of Desnick (3,642,411). Without conceding the propriety of the combination and application of Desnick to the claims, Applicants reassert Bippus in view of Atake, separately and/or in combination, fail to disclose all elements of Claim 30 from which Claims 31 and 32 depend. Further,

Desnick fails to cure the deficiency. Specifically, Desnick fails to disclose or provide reasoning for using a heat shield assembly comprising at least two heat shields operated from a common pneumatic actuator. Thus, Bippus in view of Atake and further in view of Desnick cannot render Claims 31 or 32 obvious. Applicants respectfully request the Office withdraw the rejections of Claims 31 and 32.

#### **Claim Rejections – 35 U.S.C. § 103(a) of Claim 33**

The Office has rejected Claim 33, as being unpatentable over Bippus (3,577,700) in view of Atake (6,325,607) and further in view of Dupraz (5,437,546). Without conceding the propriety of the rejection and application of Dupraz to the claims, Applicants reassert Bippus in view of Atake, separately and/or in combination, fail to disclose all elements of Claim 30 from which Claim 33 depends. Further, Dupraz fails to cure the deficiency. Specifically, Dupraz fails to disclose or provide reasoning for using a heat shield assembly comprising at least two heat shields operated from a common pneumatic actuator. Thus, Bippus in view of Atake and further in view Dupraz cannot render Claim 33 obvious. Applicants respectfully request the Office withdraw the rejection of Claim 33.

#### **Claim Rejections – 35 U.S.C. § 103(a) of Claims 34-50**

The Office has rejected Claims 34-38, 42, 46, 49 and 50, as being unpatentable over Keim (4,430,914) in view of Atake (6,325,607). Amended Claim 34 requires, in part, “means for positioning and guiding the strip in the apparatus having a first plate contacting a second plate” (emphasis added). Without conceding the propriety of the combination, the Office uses items 40, 42, 44 and 46 in Figure 7a of Keim to render obvious “the means for positioning and guiding the strip in the apparatus” elements of Claim 34. Items 40, 42,

44 and 46 of Keim are arcuate guide members that receive a web of material and do not contact each other as the thickness of the web is between opposing faces of the guide pairs (Keim, Col. 3, Lines 34-39) and the guides are disposed to be engaged by thermoformed formations of the web that bound the guide ways on the sides (Keim, Col 3, Lines 39-42). As the positioning and guiding means of Keim fails to disclose or provide a reason for using two plates contacting each other and Atake does not cure the deficiency, Keim in view of Atake cannot render Claim 34 obvious. Applicant respectfully requests the Office withdraw the rejection of Claim 34 and the claims that depend therefrom (Claims 35-38, 42, 46, 49 and 50).

Further, the Office uses the above discussed rejection of Claim 34 being unpatentable over Keim in view of Atake along with various combinations of the cited references of Ekendahl, Fritz et al., Dupraz, Mutti, Wheaton, III, et al. and Oster et al. to render **Claims 39-41, 43-45, 47 and 48** obvious. These references taken alone or in combination with the combination of Keim in view of Atake fail to cure the deficiencies of Keim in view of Atake as discussed above. As Claims 39-41, 43-45, 47 and 48 depend from Claim 34, and require all elements thereof, Keim in view of Atake in combination with the above cited references cannot render Claims 39-41, 43-45, 47 and 48 obvious. Applicants respectfully request withdrawal of these rejections.

#### **Claim Rejection – 35 U.S.C. § 103(a) Claim 52**

The Office has rejected **Claim 52**, as being unpatentable over Keim (4,430,914) in view of Mutti, et al. (4,778,382) and further in view of Atake (6,325,607) and yet, further in view of Griewe (5,385,465). Applicants assert the Office has failed to provide a *prima facie* case of obviousness with respect to Claim 52. Claim 52 requires, in part, “where said first

plate and said second plate are fastened together". Further, Claim 52 depends from Claim 1, which requires a guide structure having a first plate and a second plate, Claim 52 requires the same guide structure to be stationary and the first and second plates to be fastened together. The indexer 26 (including 26a and 26b) of Griebe cannot reasonably be interpreted to be a stationary guide structure as it is not stationary. Specifically, Griebe informs at Col. 5, Lines 52-54, that "[i]ndexer 26 formed of opposing jaws 26a and 26b moves in a reciprocal vertical manner to pull a section of sheet 13 into contact heaters 32" (emphasis added). It is commonly known in the art that "stationary" is considered nonmoving in all directions with respect to any surrounding structure. As the indexer 26 of Griebe clearly moves with respect to its surrounding structure, it cannot be considered a stationary guide structure. Further, as Griebe does not disclose a stationary guide structure having a first plate and second plate fastened together and the other cited references do not cure the deficiency, Keim in view of Mutti and further in view of Atake and yet, further in view of Griebe cannot render Claim 52 obvious. Applicants respectfully request the Office withdraw the rejection of Claim 52.

Further, without conceding the propriety of the rejection and application of Griebe to the claims, Applicants reassert Keim, Mutti and Atake, separately and/or in combination, fail to disclose all elements of Claim 1 from which Claim 52 depends. Further, Griebe fails to cure the deficiency. Specifically, Griebe fails to disclose a stationary guide structure having first and second plates that each have a slot through the plate. Thus, Keim in view of Mutti and further in view of Atake and yet, further in view of Griebe cannot render Claim 52 obvious. Applicants respectfully request the Office withdraw the rejections of Claim 52.

#### **Claim Rejections – 35 U.S.C. § 103(a) of Claims 55-58**

The Office has rejected **Claims 55-58**, as being unpatentable over Keim (4,430,914) in view of Mutti, et al. (4,778,382) and further in view of Atake (6,325,607) and yet, further in view of Spieth et al. (4,195,840). Claim 55 requires, in part, “where said stationary guide structure includes a channel formed in a first plate dimensioned so that a strip is receivable in said channel, and said stationary guide structure further includes a slot into which a roller extends so as to engage the strip”. On page 31 of the Office Action, the Office states it would be obvious to modify the guide means of Keim to include the target guide of Spieth or similar guide. Without conceding the propriety of the combination, Applicants assert Spieth by itself, or in combination with any other cited art, fails to disclose or provide reasoning for using a guide structure having a channel formed in a first plate. Thus, Keim in view of Mutti and further in view of Atake and yet, further in view of Spieth cannot render Claim 55 obvious. Applicants respectfully request the Office withdraw the rejection of Claim 55 and the claims that depend therefrom (Claims 56-58).

#### **Finality of the Next Action is Precluded**

As discussed above the Office has failed to provide a *prima facie* case of obviousness of Claims 52-54. Particularly, a stationary guide structure comprising a first plate and second plate fastened together; a guide structure comprising first plate with a channel; and a guide structure having at least one slot extending through the thickness of at least one plate, much less the first and second plates, have not been disclosed by the cited art or in the alleged combinations of the cited art or known by one skilled in the art. Applicant respectfully submits that the above discussed omissions amount to a failure to articulate a *prima facie* case of unpatentability and the burden to rebut these “rejections” or lack thereof has not yet shifted to the Applicant. Consequently, a next Office action

rejecting any of claims 52-54 (or Claim 1, as Claim 1 has been amended to include elements of Claim 54), cannot properly be made final because only then would the Applicant be obligated to rebut the rejection, presuming that such an Office action sets forth a *prima facie* case of unpatentability. (See MPEP § 706.07(a)).

Conclusion

In view of the above remarks and amendments to the claims, Applicants believe that all pending claims in the present application are in condition for allowance. Finally, the absence of additional patentability arguments should not be construed as either a disclaimer of such arguments or that such arguments are not believed to be meritorious.

Respectfully Submitted,

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